

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LISA KING, as the special administrator
for the estate of John P. King,

Plaintiff,

v.

SUE KRAMER and LA CROSSE
COUNTY,

Defendants.

OPINION AND ORDER

10-cv-123-wmc

The court held a telephonic conference today to reschedule the above-styled lawsuit for trial after remand from the Seventh Circuit and to hear argument on defendant La Crosse County's motion for extension of time to designate an expert witness (dkt. #356). Accordingly,

ORDER

IT IS ORDERED that:

- 1) On or before September 10, 2012, defendant La Crosse County shall provide admissible evidence of its expert Tom Rosazza's health condition, in the form of a declaration from Rosazza and/or proof from one of his health care providers, describing the general limitations on his future involvement in this case and, specifically, his ability to appear at trial or sit for a video deposition for use at trial.
- 2) The court will reserve ruling on the County's motion for extension of time to designate an expert witness (dkt. #356) pending receipt of the evidence described in paragraph 1.
- 3) If the court grants the motion, the County may have thirty days from that order to name a new expert whose opinions will be limited to the topics on which he previously opined. Moreover, Rosazza's previous testimony may be offered into evidence and/or used for impeachment of the County's new expert at trial.

- 4) The court will reserve setting a new trial date and various pre-trial deadlines until it rules on the County's motion for extension of time. If the motion is not granted -- in other words, Rosazza is able to appear at trial or sit for a video deposition for use at trial -- the trial will commence on November 26, 2012. If the motion is granted and a new expert is named, the trial will commence on January 14, 2013.
- 5) In anticipation of the upcoming trial, the court sets the following deadlines and provides the following additional guidance for pretrial submissions:
 - a. On or before the fourth Friday before the commencement of trial, the parties shall provide opposing counsel and the court:
 - i. Rule 26(a)(3) disclosures.
 - ii. Motions in limine. The court will take up the *Daubert* motions on Dr. Novum and Dr. Greifinger, and the parties need not re-submit those motions. All parties may, in their discretion file motions in limine earlier than the deadline; responses to those motions are due 14 days later.
 - iii. A short, written narrative statement of each expert's background and experience. These statements will be read to the jury and no proof will be received on the matters covered unless an objection to the narrative statement is filed.
 - b. On or before the third Friday before the commencement of trial, the parties shall provide opposing counsel and the court:
 - i. Exhibit lists. Any exhibits not listed shall be excluded from admission into evidence except upon good cause shown.
 - ii. A list of portions of depositions, to be offered into evidence at trial, by page and line references for witnesses unavailable at trial. Extensive reading from depositions is strongly discouraged. Toward that end, the proponent of a deposition may -- though is not required to -- prepare a written narrative summary of some or all deposition transcripts the party intends to offer into evidence, with annotated page and line references in parenthesis after each sentence, in lieu of part or all of the narrative of questions and answers.
 - iii. Additional voir dire questions.
 - iv. Proposed verdict forms.
 - v. Proposed jury instructions.

- vi. In addition to electronically filing voir dire questions, verdict forms and jury instructions, please submit to the court an electronic copy of each in Microsoft Word format to wiwd_wmc@wiwd.uscourts.gov.
- c. On or before the second Friday before the commencement of trial, the parties shall provide opposing counsel and the court:
 - i. Responses to motions in limine.
 - ii. Objections to exhibits.
 - iii. Responses to opposing parties' voir dire questions, verdict forms, and jury instructions.
 - iv. Objections and counter designations to proffered deposition designations.
- d. Counsel are directed to consult in good faith and reach resolution on the admissibility of exhibits to the extent possible. Each party shall file copies of any contested exhibits they intend to offer with the court by 12:00 p.m. on the Thursday before the final pretrial conference.
- e. The final pre-trial conference shall be held on the Tuesday before the commencement of trial at 4:00 p.m.
- f. The trial shall commence either Monday, November 26, 2012 or Monday January 14, 2013 at 9:00 a.m. The parties shall meet with the court at 8:30 a.m. that morning for any matters that need to be brought to the court's attention.

Entered this 29th day of August, 2012.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge